

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**DENISE DIXON, and  
ESTATE OF EMANUEL BURGARINO,**

**Plaintiffs,**

**V.**

**CAESARS ENTERTAINMENT CORP.,  
CAESARS HOLDINGS, INC., CAESARS  
ENTERTAINMENT, INC., CAESARS  
ENTERTAINMENT OPERATING COMPANY,  
INC., VICI PROPERTIES INC., VICI  
PROPERTIES 1 LLC, HARRAH'S ILLINOIS  
LLC, HARRAH'S JOLIET LANDCO LLC,  
HARRAH'S ILLINOIS CORPORATION, and  
DES PLAINES DEVELOPMENT LIMITED  
PARTNERSHIP,**

## Defendants.

**Case No. 1:21-cv-01673**

**HON. MANISH SHAH**

## JURY TRIAL DEMANDED

**PLAINTIFFS' MOTION TO DISMISS OR STRIKE THIRD-PARTY COMPLAINT  
PURUSANT TO RULE 12(b)(6) AND RULE 14(a)(4)**

Plaintiffs Denise Dixon and the Estate of Emanuel Burgarino (“Plaintiffs”), by their attorneys, John E. Machulak, Machulak, Robertson & Sodos, S.C., and Jeffrey E. Crane, Law Office of Jeffrey E. Crane, LLC, respectfully moves this Court pursuant to Fed. R. Civ. P. Rule 12(b)(6) and Rule 14(a)(4) to dismiss or strike the Third-Party Complaint against Robert Watson (“Watson”) filed by Third-Party Plaintiffs Caesars Entertainment Corp. n/k/a Caesars Holdings, Inc., Caesars Entertainment, Inc., Caesars Entertainment Operating Company, Inc. n/k/a CEOC, LLC, VICI Properties Inc., VICI Properties 1 LLC, Harrah’s Illinois LLC, Harrah’s Joliet LandCo LLC, and Des Plaines Development Limited Partnership (collectively “Harrah’s Joliet” or “Defendants”), for failure to state a contribution claim and for improper impleader. As fully

explained in the Memorandum of Law in Support of Motion to Dismiss or Strike Third-Party Complaint filed contemporaneously with this motion, Harrah's Joliet's Third-Party Complaint fails to adequately plead a cause of action for contributory negligence, thereby necessitating that the Third-Party Complaint be dismissed pursuant to Fed. R. Civ. P. 12(b)(6) and/or stricken pursuant to Rule 14(a)(4).

Third-party defendant Watson indisputably is an intentional tortfeasor who fatally assaulted Emanuel Bugarino by stabbing him multiple times. Illinois law, specifically 735 ILCS 5/2-1117, does not allow a jury to compare Watson's intentional conduct with Defendants' negligence in determining who was at fault for Bugarino's death. *Hills v. Bridgeview Little League Ass'n*, 713 N.E.2d 616 (Ill. App. Ct. 1999). Contribution is not available as a matter of law in intentional tortfeasor cases. *See Gerill Corp. v. J.L. Hargrove Builders*, 538 N.E.2d 530, 542 (Ill. 1989); *Giordano v. Morgan*, 554 N.E.2d 810, 814 (Ill. App. Ct. 1990); *Appley v. West*, 929 F.2d 1176, 1180 (7th Cir. 1991) (Illinois courts have recognized that tortfeasors are not entitled to contribution for intentional torts). Accordingly, Harrah's Joliet's Third-Party Complaint should be dismissed as a matter of law under Rule 12(b)(6) or stricken under Rule 14(a)(4).

Dated: April 26, 2022

Respectfully submitted,

**Plaintiffs Denise Dixon and the Estate  
of Emanuel Bugarino**

/s/ Jeffrey E. Crane

One of Their Attorneys

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 26, 2022, I electronically filed Plaintiffs' Motion to Dismiss or Strike Third-Party Complaint Pursuant to Rule 12(b)(6) and Rule 14(a)(4) with the Clerk of the Court via the CM/ECF system. Notice of this filing and the aforementioned document will be served on all parties via the Court's electronic filing system.

**DEFENDANTS' COUNSEL:**

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/s/ Jeffrey E. Crane

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